

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION**

**DUANE DELANTE JEFFERSON,  
PETITIONER,**

**v.**

**DEE ANDERSON, SHERIFF,  
TARRANT COUNTY, TEXAS,  
RESPONDENT.**

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**Civil Action No. 4:09-CV-477-Y**

**FINDINGS, CONCLUSIONS AND RECOMMENDATION  
OF THE UNITED STATES MAGISTRATE JUDGE  
AND NOTICE AND ORDER**

This cause of action was referred to the United States Magistrate Judge pursuant to the provisions of 28 U.S.C. §636(b), as implemented by an order of the United States District Court for the Northern District of Texas. The Findings, Conclusions, and Recommendation of the United States Magistrate Judge are as follows:

**I. FINDINGS AND CONCLUSIONS**

**A. NATURE OF THE CASE**

This is a petition for writ of habeas corpus by a state prisoner pursuant to 28 U.S.C. § 2254.

**B. PARTIES**

Petitioner Duane Delante Jefferson, CID # 0542682, is a state prisoner who was incarcerated in the Tarrant County jail at the time of the filing of this petition. Jefferson is no longer confined in the Tarrant County jail, and his whereabouts are unknown.

Respondent Dee Anderson is the Sheriff of Tarrant County, Texas.

**C. PROCEDURAL HISTORY**

At the time this petition was filed, Jefferson was confined in the Tarrant County jail pending state criminal charges and a parole hold. (Petition at 2) A copy of the October 13, 2009, "Order

Extending Time to File Answer” was sent to Jefferson at the Tarrant County jail and was returned to the clerk’s office undeliverable reflecting that Jefferson is no longer in the Tarrant County jail. *See* CM/ECF, Criminal Docket for Case # 4:09-CV-477-Y, docket entries for October 13 and October 26, 2009. Furthermore, Anderson has filed a motion to dismiss the petition because on August 13, 2009, Jefferson pled guilty to a lesser offense for time served, on September 9, 2009, a parole panel voted to continue Jefferson on parole supervision, and on September 12, 2009, Jefferson was released from the Tarrant County jail. As of this date, Jefferson has not provided a change of address to the Court.

#### **D. DISCUSSION**

Jefferson’s claims involving the pending state criminal matters are now moot in that he has resolved the matters in state court and, in fact, been released from confinement. Because this court can no longer provide him with the relief sought in the petition, dismissal is appropriate as moot. *See Bailey v. Southerland*, 821 F.2d 277, 278-79 (5<sup>th</sup> Cir. 1987); *McRae v. Hogan*, 576 F.2d 615, 616-17 (5<sup>th</sup> Cir. 1978).

### **II. RECOMMENDATION**

It is recommended that Anderson’s motion to dismiss be granted and Jefferson’s petition for writ of habeas corpus be dismissed as moot.

### **III. NOTICE OF RIGHT TO OBJECT TO PROPOSED FINDINGS, CONCLUSIONS AND RECOMMENDATION AND CONSEQUENCES OF FAILURE TO OBJECT**

A copy of this report and recommendation shall be served on all parties in the manner provided by law. Any party who objects to any part of this report and recommendation must file specific written objections within 10 days after being served with a copy. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). The court is extending the deadline within which to file specific written

objections to the United States Magistrate Judge's proposed findings, conclusions, and recommendation until November 20, 2009. In order to be specific, an objection must identify the specific finding or recommendation to which objection is made, state the basis for the objection, and specify the place in the magistrate judge's report and recommendation where the disputed determination is found. An objection that merely incorporates by reference or refers to the briefing before the magistrate judge is not specific. Failure to file specific written objections will bar the aggrieved party from appealing the factual findings and legal conclusions of the magistrate judge that are accepted or adopted by the district court, except upon grounds of plain error. *See Douglass v. United Services Automobile Ass'n*, 79 F.3d 1415, 1417 (5th Cir. 1996).

#### **IV. ORDER**

Under 28 U.S.C. § 636, it is ordered that each party is granted until November 20, 2009, to serve and file written objections to the United States Magistrate Judge's proposed findings, conclusions, and recommendation. It is further ordered that if objections are filed and the opposing party chooses to file a response, a response shall be filed within seven (7) days of the filing date of the objections.

It is further ordered that the above-styled and numbered action, previously referred to the United States Magistrate Judge for findings, conclusions, and recommendation, be and hereby is returned to the docket of the United States District Judge.

SIGNED October 30, 2009.

/s/ Charles Bleil  
CHARLES BLEIL  
UNITED STATES MAGISTRATE JUDGE